

SENATE ADMITS BLUNDER; DRY BILL IS ILLEGAL

Smoot Amendment Violates Fifth Amendment to Constitution.

WHISKEY ACT FUTILE

Senator Shields of Tennessee Discovers Grave

RIGHT OF COURT USURPED

Reconsideration Is Mandatory, as Lawmakers Can't Fix Compensation.

WASHINGTON, July 2.—John Barleycorn displayed unmistakable signs of life to-day. The Smoot amendment to the food bill is admitted even by Senators who on Saturday voted in favor of it to be unconstitutional and void.

This discovery had been predicted in the course of Saturday's debate by Senators who opposed the Smoot amendment. That amendment provided that upon the enactment of the food administration bill the President was directed and empowered to commandeer all distilleries.

to owners thereof the cost of production plus 10 per cent. thereof, redistill this liquor for the production of alcohol for Government uses.

Senator Shields of Tennessee, who voted against reconsideration of the vote by which the Smoot amendment was adopted and has consistently voted for all preceding amendments, tending to

Compensation Up to Courts.

"In fixing the price at which whiskey in bond is to be taken over by the President and the Senate, this bill has become involved in a judicial complication. The Senate has undertaken to arrogate to itself power that belongs to the courts. Congress may legislate power to command, but when it attempts to fix prices it encroaches upon the authority of the judiciary. How can Congress say what is to be a fair price for whiskey?"

"To say that cost plus 10 per cent. is a fair price for this whiskey is to hit arbitrarily upon a price without any real attempt to arrive at a fair calculation. Manifestly if any price is to be fixed by Congress it ought to be the market price and not the cost of production price.

"Does any one believe the owners of

"This whole affair has simply been an effort to force prohibition on the country at a time when the need of the coun-

Stone Sees "Ridiculous Error."

Senator Stone, Missouri, one of the leaders of the "wets," directed the attention of the Senate to the fact that he had warned them Saturday that just such a situation was being created. He said that he had pointed out this flaw in the drafting of the Smoot amendment.

"I told you it would do this very thing, and you cannot but realize that in your haste to hurry this bill into the bill, such a piece of legislation,"

"I call it to the attention of the distinguished Senator from Iowa, Mr. Kenyon, who has been paying attention to the remarks of the senior Senator from Tennessee," the Missourian continued.

At the time the Smoot amendment was introduced, I was busy with a number of other matters, and I admit that I did not perhaps give it the attention it deserved. But I have followed the argument of the learned Senator from Tennessee with closest application and I am convinced that he is right, absolutely right, in his interpretation of the pro-

Discovery Like Bolt From Sky.

The discovery and the admissions from both sides of the Senate Chamber came like a bolt from a clear sky upon the peace and quiet which had followed a busy morning hour devoted to the consideration of the succeeding sections of

It was instantly evident that the Senate would have to rescind its action of Saturday. The supposed finality of Saturday's action sprang from the fact that the votes on the Smoot amendment and the other amendments which were then written into the bill were taken under a unanimous consent agreement that the action of the Senate, sitting as a whole, was final.

It was immediately obvious that the Senate could not set the seal of final approbation and accomplishment upon a section of the proposed statute which was admittedly unconstitutional and the

As a result of the sudden upset of prohibitionists plans created by Senator Shields's bombshell the Senate Committee on Finance to-day made unofficial

and take no precipitate action looking to the revision of the war revenue bill until after the food administration bill, at least so far as prohibition was concerned, had been settled.